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List of issues in relation to the fourth periodic report of the Democratic Republic of the Congo

Addendum

Replies of the Democratic Republic of the Congo to the list of issues*

[Date received: 6 October 2017]

* The present document is being issued without formal editing.

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Replies to the list of issues in relation to the fourth periodic report of the Democratic Republic of the Congo

Constitutional and legal framework within which the Covenant is implemented

1. Under article 215 of the Constitution of 18 February 2006, as amended, "treaties and international agreements duly entered into shall, following their publication, override national laws, provided the other party implements the said treaty or agreement". As the supremacy of international legal instruments is thus recognized in the legislation of the Democratic Republic of the Congo, it follows that, in proceedings where provisions of the Covenant are invoked, judges rely on those provisions and are bound to rule in accordance with them. The Government nonetheless sees to it that judges and lawyers are given continuous professional training to ensure that provisions of the Covenant are invoked as necessary.

2. Regarding effective remedies available to individuals, the Government reviews them, with reservations in cases where citizens are being tried in domestic courts, pending the issuance of a final judgment.

3. Throughout the country, customary courts have been replaced with district courts. These courts do not rely on customary law that is incompatible with the Covenant, in view of the principle that customs that are contrary to the law or to morals are not applicable.

4. The following measures have been taken:

- Information campaigns on a number of laws, including Act No. 15/013 of 1 August 2015 on means of giving effect to women's rights and gender parity, Act No. 16/010 of 15 July 2016 amending and supplementing Act No. 015-2002 of 16 October 2002 on the Labour Code, Act No. 016/008 of 15 July 2016 amending and supplementing Act No. 010 of 1 August 1987 on the Family Code, and Act No. 11/008 of 9 July 2011 on the criminalization of torture;
- National action plan to end child marriage.

5. The National Human Rights Commission was established by Organic Act No. 13/011 of 21 March 2013, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles). The members of the National Human Rights Commission were selected by their peers, approved by the National Assembly and appointed by presidential order.

6. As part of its activities in the area of protecting human rights, the Commission has dealt with 84 complaints and has made a number of visits to the Kinshasa Penitentiary and Re-education Centre (formerly known as the Makala prison) and the Ndolo military prison. In the area of promoting human rights, more than 10 capacity-building courses have been held for Commission members.

7. The Commission's share of the national budget amounts to 6,173,287,405 Congolese francs (CGF) (US$ 6,430,507.71), or 0.11 per cent of the total national budget.

8. The Commission is responsible for:

- Investigating all cases in which human rights have been violated
- Providing guidance to complainants and victims and helping them to initiate legal action in respect of all confirmed violations of human rights
- Conducting periodic visits to prisons and detention centres throughout the Democratic Republic of the Congo
- Ensuring that the rights of women and children are respected
- Ensuring that the rights of persons with disabilities are respected

- Ensuring that the rights of older persons, victims of disasters of all kinds and other vulnerable groups are respected
- Educating citizens about their basic rights
- Contributing to the promotion of civic education and a culture of human rights in order to enhance public awareness
- Strengthening the response capacities of human rights associations
- Ensuring the implementation of domestic legal norms and of regional and international human rights instruments that have been duly ratified by the Democratic Republic of the Congo
- Using conciliation to settle some cases involving human rights violations
- Drawing up recommendations for the ratification of regional and international human rights instruments
- Promoting and ensuring the harmonization of domestic laws, regulations and practices with international human rights treaties that have been duly ratified by the Democratic Republic of the Congo
- Preparing reports on the status of implementation of domestic norms and international legal instruments in the area of human rights
- Contributing to the preparation of reports that the Democratic Republic of the Congo is required to submit to international organizations pursuant to its human rights treaty obligations
- Reviewing domestic human rights legislation and proposing changes to the country's legal framework
- Issuing opinions and making proposals to Parliament, the Government and other institutions on matters relating to the promotion and protection of human rights, international humanitarian law and humanitarian action
- Developing networks and cooperative relations with Congolese institutions and with local, national and international organizations that pursue the same objectives
- Performing any other function or activity falling within the scope of its mandate

Gender equality and harmful traditions

9. Act No. 016/008 amending and supplementing Act No. 010 of 1 August 1987 on the Family Code entered into force on 15 July 2016, the date of its promulgation.

10. As called for by the Committee on the Elimination of Discrimination against Women, it addresses all the provisions found to constitute discrimination against women in the following articles:

- Article 448 of the Family Code, under which a married woman could not enter into any legal undertaking without her husband's permission. This provision was amended to read as follows: "Any legal act requiring the performance of an obligation may be undertaken only with the agreement of both spouses"
- Article 264 provides that "The composition of the guardianship council shall take gender representation into account"
- Article 454: "The spouses undertake to live together wherever they choose to reside, in the interest of the marriage"
- Article 455: "If the place of residence is determined by one of the spouses in a manner that is manifestly unreasonable or contrary to the conditions agreed upon between them, the aggrieved spouse may, after several attempts to arrive at a solution, file for redress with the district court"

11. With regard to the definition of the offence of adultery, article 467 of the 1987 Family Code was amended in 2016 to read as follows:

"Adultery shall be punishable by a term of imprisonment of six months to one year and a fine of 60,000 to 250,000 Congolese francs, and shall be deemed to have been committed by:

- Any person who knowingly has sexual relations with a married person
- A married person who has sexual relations with a person other than his or her spouse

The penalty shall be doubled if the adultery was committed in aggravating circumstances, in particular if it took place in the conjugal home."

12. Regarding the family record book, article 148 provides as follows.

13. "Upon the performance or registration of a marriage, the registrar shall provide the spouses with a family record book, the first page of which shall contain information concerning their identity, the date and place of registration of the marriage (if performed in a family setting) or of performance of the marriage before the registrar, the dowry and the marital property regime.

14. These statements shall be signed by the registrar and the spouses. A spouse who does not know how to sign shall affix his or her thumbprint instead of a signature, or an indication shall be given of the reason that the person was unable to sign. The other pages of the book shall be used for recording the births and deaths of children, adoptions, recognition of children born outside the marriage, the death or divorce of the spouses and the identities of any relatives forming part of the household.

15. The family record book shall also indicate any corrections made to records in the civil status registry and any instances where a relative ceases to form part of the household. The entries and indications in the family record book shall be signed and stamped by the registrar."

16. Article 150: "Should the family record book be lost, one or both of the spouses shall request a new one.

17. The new book shall be marked 'duplicate'."

18. Article 444: "The husband is the head of the household. Spouses have a mutual obligation of protection."

19. With regard to the measures taken to put an end to harmful practices and traditions, such as polygamy, article 349 of the Family Code provides that marriage is between one man and one woman. Regarding early marriage, article 48 of the Child Protection Act prohibits the betrothal and marriage of children. Female genital mutilation is addressed in Act No. 15/013 of 1 August 2015 on means of giving effect to women's rights and gender parity. Under article 24 of the Act, "The State shall take appropriate measures to modify the social and cultural patterns of conduct of women and men by educating the general public through strategies using new information and communication technologies, with a view to achieving the elimination of all harmful cultural practices and other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for women and men, levirate marriage, etc." Concerning forced marriage and the customary practice that discriminates against women with respect to land inheritance, articles 499 and 503 of the new Family Code protect women's property rights from all degrading and shameful practices. All these provisions are accompanied by a public outreach campaign to enable women to make use of mechanisms for protecting their rights.

20. With regard to the measures taken to protect the integrity of adults and children with albinism and their families, especially their mothers, it should be noted that the Criminal Code protects the rights of persons with albinism, along with those of persons in other social categories. The Democratic Republic of the Congo is a party to the Convention on the Rights of Persons with Disabilities, which covers persons with albinism. Accordingly, the country has a five-year strategic plan for the advancement of persons with disabilities, and in 2016 persons with albinism were involved in the design and approval of a plan of action outlining all the measures to be taken for the benefit of such persons.

21. Concerning the measures taken to eliminate discrimination against women in political and public life, Act No. 15/013 of 1 August 2015 on means of giving effect to women's rights and gender parity includes the following articles:

- Article 4 provides that "Men and women shall enjoy all political rights on an equal footing. Women shall be represented equitably in all appointed and elected positions in national, provincial and local institutions, including the democracy-supporting institutions, the National Economic and Social Council and public and quasi-public institutions at all levels"
- Article 5: "Political parties shall take account of gender parity in drawing up candidate lists in accordance with the conditions stipulated in the Electoral Act"
- Article 6: "The State shall adopt specific strategies for ensuring that women and men have equal opportunities to participate in all electoral processes, including election administration and voting. It shall see to it that men are included in all activities concerning gender and community mobilization"
- Article 33: "Any political party whose candidate list does not take the gender dimension into account shall not be eligible for public funding"

22. Article 264 of the amended Family Code provides that "The composition of the guardianship council shall take gender representation into account."

23. Act No. 16/013 of 15 July 2016 on the personnel rules governing career civil servants replaces the rules of 17 July 1981, article 8 (8) of which provided that a married woman could not be recruited without her husband's consent. The new rules set the minimum and maximum ages of recruitment (respectively 18 and 35 years) on an equitable basis.

Table 1
Number of female and male heads of diplomatic missions

	Men	*Women*	*Total*	*Women (%)*
Number of ambassadors	30	06	36	17
Number of chargés d'affaires	24	06	30	20
Number of consuls	2	2	4	50

Source: Ministry of Foreign Affairs, 2017.

Table 2
Members of the judiciary, by gender

Judicial institution	*Number of women*	*Number of men*	*Women (%)*
Constitutional Court, Supreme Court, Office of the Attorney General of the Republic and Public Prosecution Service of the Constitutional Court	5	69	7
Courts of appeal and Public Prosecution Service	34	250	12
Courts of major jurisdiction and prosecution services of such courts	621	2 417	20
Total	**659**	**2 727**	**20**

Source: Judicial Service Commission.

Table 3
Members of the Congolese National Police, by gender

Rank	*Number of women*	*Number of men*	*Women (%)*
Senior Chief Superintendent (*Commissaire Divisionnaire en Chef*)	0	2	0
Chief Superintendent (*Commissaire Principal*)	0	0	0
Superintendent (*Commissaire Divisionnaire*)	0	13	0
Deputy Superintendent (*Commissaire Divisionnaire Adjoint*)	1	30	3
Chief Inspector (*Commissaire*)	5	52	9
Deputy Chief Inspector (*Sous-Commissaire*)	13	242	5
Total	**19**	**339**	**5**

Table 4
Number of men and women in the Government (2017)

Members of the Government	*Total*	*Men*	*Women*	*Women (%)*
Prime Minister	1	1	0	0
Deputy Prime Minister	3	3	0	0
Ministers of State	9	9	0	0
Ministers	33	29	6	18
Assistant Ministers	2	2	0	0
Deputy Ministers	11	10	1	9
Total	**59**	**54**	**7**	**12**

Table 5
Number of men and women in Parliament (2006-2017)

Members of Parliament	*2006 election*				*2011 election*		
	Total	*Men*	*Women*	*Women (%)*	*Men*	*Women*	*Women (%)*
Deputies	500	457	43	8.6	445	55	11
Senators	108	103	5	4.6	-	-	-
Total	**608**	**559**	**49**	**8.1**	**556**	**52**	**8**

24. It can be seen that, following the 2006 and 2011 general elections, the proportion of parliamentary seats held by women has not exceeded 11 per cent, with an average for both houses of 8.1 per cent in 2006 and 8.6 per cent in 2011. In 2006, the upper house of Parliament had 457 men but only 43 women, who accounted for 8.6 per cent of the total number of senators; in 2011, there were 445 men and 55 women, or 9.4 per cent of the total. In the lower chamber as well, women accounted for only 8.1 per cent of the total in 2006 and 8.6 per cent in 2011.

Table 6
Disaggregated statistics on men and women in public administration

Post	*Number of women*	*Number of men*	*Women (%)*
Secretary General	7	44	14
State-owned enterprises			
Chair of the Board of Directors	3	34	8
Director General	4	33	11
Technical Director	5	32	14
Total	**12**	**99**	**11**

25. The situation is the same in public administration: women are poorly represented, accounting for only 13.7 per cent of secretaries general and 8.1 per cent of chairs of boards of directors. Even the democracy-supporting institutions are not immune to this phenomenon: only two out of six members are women, i.e. 33 per cent in the Independent National Electoral Commission and the National Economic and Social Council and 16.6 per cent in the Higher Audiovisual and Communications Council.

Table 7
Women's participation in the democracy-supporting institutions (2017)

Institution	*Total staff*	*Number of women*	*Number of men*	*Women (%)*
Independent National Electoral Commission	137	57	80	42
National Human Rights Commission	9	4	5	44
Higher Audiovisual and Communications Council	18	3	15	17
National Economic and Social Council	9	2	7	22

Source: Cadre Permanent de Concertation de la Femme Congolaise (CAFCO).

Table 8
Women's participation in peace talks in the Democratic Republic of the Congo

Peace agreement	*Number of women*	*Number of men*	*Women (%)*
Ceasefire Agreement (Lusaka, 1999)	45	300	13
Global and All-Inclusive Agreement (Sun City, 2002)	47	298	13
Pact on Security, Stability and Development in the Great Lakes Region (2006)	0	11	0
Constitutional and legislative reforms (2006)	58	550	10
Acte d'engagement (Goma, 2008)	1	88	1
Peace agreement between the Government and the Congrès national pour la défense du peuple (CNDP) (2009)	0	4	0
Security sector reform (2012)	58	550	10
Addis Ababa Framework Agreement (2013)	1	15	6
National consultations (2013)	112	638	15
African Union dialogue (2016)			
Conférence Épiscopale Nationale du Congo dialogue (2016)	3	29	9
Total	**325**	**2 484**	**12**

26. Measures to ensure that women have equal access to the labour market and education include the adoption of Act No. 15/013 of 1 August 2015 on the means of giving effect to women's rights and gender parity. Article 21 of the Act guarantees women's right to have equal access to the labour market: "Without prejudice to the legal provisions in force, the prohibition of all discrimination shall apply to any harmful practice in relation inter alia to recruitment, work assignments, working conditions, pay and benefits, promotion, and termination of the employment contract."

27. Act No. 16/008 of 15 July 2016 amending and supplementing Act No. 87-010 of 1 August 1987 on the Family Code abolished the spousal authorization requirement for married women and replaced it with a requirement that both spouses be in agreement on all legal acts in which they undertake obligations, either individually or collectively.

28. With regard to women's access to education, the above-mentioned Act No. 15/013 of 1 August 2015 provides, in article 10, that:

> "Men and women are entitled to equal opportunities and equal access to education and training.
>
> Accordingly, the Government shall implement specific programmes to:
>
> - Promote parity between girls and boys in terms of school enrolment
> - Encourage girls' entry into all fields of study
> - Substantially reduce the literacy gap between men and women
> - Provide education to out-of-school children of both sexes through special programmes, apprenticeships and vocational training
> - Provide training and education free of charge to girls and boys living in poverty
> - Ensure that teenage mothers and pregnant teenagers are able to pursue their education"

Violence against women

29. The measures taken to combat domestic violence include the adoption of Act No. 16/008 of 15 July 2016 amending and supplementing Act No. 87-010 of 1 August 1987 on the Family Code. Articles 459 and 460 of the amended Code stipulate, respectively, that:

- "Spouses owe each other faithfulness, respect, consideration and affection"
- "A spouse who alleges that the other has failed in his or her duties may, after several attempts to arrive at a solution, file for redress with the district court"

30. Owing to sociocultural constraints, there are virtually no statistics on cases of domestic violence. For this reason, campaigns are being conducted to raise awareness of the new Family Code with a view to changing patterns of conduct.

31. In order to give effect to Act No. 06-18 and Act No. 06-19 of July 2006 and to implement the national strategy to combat gender-based violence and the road map of the Ministry of Justice on combating impunity for crimes of sexual violence, the Democratic Republic of the Congo has taken the following actions:

- Adoption of the National Gender Policy
- Adoption of the regional plan for implementing United Nations Security Council resolution 1325 (2000) on women
- Adoption of the national action plan for implementing the national strategy to combat gender-based sexual violence
- Adoption of the action plan for implementing United Nations Security Council resolution 1325 (2000)
- Establishment of joint technical coordination committees at the national, provincial and local levels to combat sexual violence

- Establishment of provincial and local commissions to combat sexual violence
- Adoption of Organic Act No. 13/011-B of 11 April 2013 on the organization, operation and jurisdiction of the ordinary court system, which gives courts of appeal jurisdiction over the crime of genocide, war crimes and crimes against humanity. Such crimes are thus no longer within the exclusive jurisdiction of military courts and are now usually within the jurisdiction of ordinary courts
- Institution of mobile court hearings that have led to the conviction of several perpetrators of crimes of sexual violence, including civilians and even military personnel, regardless of rank
- Adoption, in 2014, of the action plan of the armed forces to combat sexual violence, and establishment of a commission for its implementation, together with a code of conduct for the armed forces
- Appointment, by Order No. 14/021 of 8 July 2014, of the Personal Representative of the Head of State for combating sexual violence and child recruitment. This official is continuing and strengthening the efforts already made to combat impunity for sexual violence through the implementation of the strategic plan of his Office, which has helped to achieve significant results

32. The measures taken to combat rape in schools include campaigns in a number of schools in the Democratic Republic of the Congo to raise awareness and provide information on applicable laws.

33. The statute of limitations for rape is 10 years when it is considered an ordinary offence. However, when it is considered to fall within the category of crimes against humanity, war crimes or genocide, it is not subject to any statute of limitations.

34. A number of initiatives have been taken to provide victims of sexual violence with medical, psychological and legal assistance and to help them re-enter the labour force, including:

- Free legal services for victims of sexual violence
- Free medical and psychological assistance for victims in specialized centres in order to prevent or stop infections and unwanted pregnancies
- Social and economic reintegration through income-generating activities, with support from all bilateral and multilateral partners, including:
    - Conclusion of a memorandum of understanding with the National Vocational Training Institute on a feasibility study concerning the provision of vocational training to survivors of sexual violence and to demobilized children in Rutshuru and Kibumba, North Kivu
    - Conduct of pilot programmes in Kibumba to provide training to 75 persons, including rape survivors, former child soldiers and some members of their communities (in order to avoid stigmatization of victims) in the areas of literacy, modern methods of livestock-raising, soap-making and baking
    - Awarding of certificates of participation and socioeconomic reintegration kits to 49 persons who successfully completed the training in Kibumba

35. These training initiatives have made it possible to reintegrate victims of sexual violence into their communities by giving them an alternative to war or restoring the dignity and the social and financial self-sufficiency of women who had felt dishonoured and diminished as a result of rape. With an occupation, they once again become respectable and useful in their communities.

36. The following measures should also be noted:

- Establishment of an inter-agency technical group consisting of officials of the Military High Court, the Official Gazette (*Journal Officiel*), the Military Prosecutor's Office and independent experts, which prepared the first compilation of

judgments containing a summary of emblematic cases in which the defendants were convicted of rape

- Digitization of the database on sexual violence kept by the Military Prosecutor's Office, which contains real-time data on all cases of sexual violence and child recruitment registered in military courts, together with the judgments handed down in all such cases in the Democratic Republic of the Congo
- Updating of the 2014 text prepared by the Ministry of Justice on the reparation fund for victims of sexual violence, thus enabling the legislature to prepare a proposed amendment of the 2006 laws to include a victim assistance fund and a financial mechanism for compensating victims
- Establishment of a joint task force, composed of civilian and military judges and legal experts, for the organization of judicial oversight with a view to strengthening efforts to combat impunity and requiring all judicial entities to share official statistics in real time
- Establishment of an emergency hotline offering referrals to medical or legal services for victims of sexual violence and any other persons in the Democratic Republic of the Congo
- Sending of 50,000 SMS messages over mobile telephone networks in the country to promote the cause of combating sexual violence
- Strengthening of the "Break the Silence" campaign, designed in 2015 as a means of preventing sexual violence, through the launching of the campaign in two phases in order to encourage the reporting of rape

Right to life

37. Concerning the reasons that the arrest warrants issued against the rebel leaders mentioned in paragraph 103 of the report have not produced any results, it should be noted that despite the authorities' urgent request that Rwanda extradite individuals alleged to be responsible for enforced disappearances and summary executions, no action has been taken to date.

38. Regarding the measures being taken to put a stop to arbitrary killings committed by non-State armed groups, a number of perpetrators have been convicted as a result of investigations carried out by the justice system in accordance with the law. Examples include the following cases: *Basele et al.* (Kisangani garrison military court), *Morgan* (*MP and PC v. Masumbuko Papy et al.*, Ituri garrison military court, 16 April 2014), *Gédéon Kyungu et al.* (Haut-Katanga garrison military court). Jacques Mbokani, *La jurisprudence congolaise en matière de crimes de droit international* (Congolese case law in respect of international crimes), Open Society Foundations, pp. 65, 68 and 92.

39. As to the events that took place in Kinshasa from 19 to 21 September 2016 and the incidents that occurred throughout the country in relation to the events of 19 and 20 December 2016, what purported to be peaceful demonstrations organized by a political opposition party unfortunately degenerated into violence, resulting in killings, rape, arson, vandalism, malicious destruction of property and looting of public and private property. Although the route to be taken by the demonstrators had been agreed upon with the Governor of the City of Kinshasa, on 19 September 2016 the organizers deliberately chose to use a number of alternative routes to evade police supervision and exploit the demonstrators' presence to perpetrate acts of malicious destruction, vandalism and extreme violence against the lives and the physical integrity of peaceful citizens and law enforcement officers in the performance of their duties, in order to promote general lawlessness.

40. Concerning information on Operation Likofi of 15 November 2013 and the investigation regarding the mass grave discovered in Maluku, Kinshasa, in March 2015, Operation Likofi was launched in order to put an end to urban crime, which was becoming disturbingly close to terrorism. The operation was a great success in the eyes of the public, although there were some hitches in its implementation. What was found in Maluku was

not a mass grave, but the result of a routine initiative by the Kinshasa city authorities for the burial of indigent citizens.

41. As to the measures taken to ensure that the death sentence is imposed only for the most serious crimes, and the ratification of the Second Optional Protocol to the International Covenant on Civil and Political Rights, the right to life is guaranteed in the Democratic Republic of the Congo under article 16 of the Constitution, which states that the human person is sacred. Thus, the human person enjoys special protection, which is strengthened by article 61 of the Constitution, under which the right to life is one of the core human rights. Although Congolese positive law still provides for the death penalty, the country is observing a de facto moratorium whereby no death sentence has been carried out for the past 14 years. Before considering whether to ratify the Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty, the authorities plan to hold a national consultation on this issue.

42. Regarding the number of death sentences handed down since the previous report, 27 cases have been recorded but no such sentences have been carried out for the past decade, given that the country is observing a de facto moratorium.

43. Most of the courts that handed down these sentences are military courts.

44. The crimes for which these sentences were handed down are murder, rebellion, crimes against humanity and war crimes.

Voluntary termination of pregnancy

45. At this time, the Democratic Republic of the Congo has no plans to review articles 165 and 166 of Book II of the Criminal Code. The reason is that voluntary termination of pregnancy has harmful consequences for women's health and is therefore an offence that is punishable under these provisions.

46. Voluntary termination of pregnancy for any reason whatsoever is an offence in the Democratic Republic of the Congo, regardless of whether it is committed by the woman herself or by someone else. It is always an offence and the perpetrator is liable to severe penalties. The law criminalizing the voluntary termination of pregnancy is still in force.

47. Therapeutic abortion may be authorized in accordance with the procedure established in the document "National Treatment Programme".

Protection of civilians and population displacement

48. In order to consolidate the authority of the State throughout the national territory and to protect the civilian population, the Government has set up civil administrations in conflict zones to ensure the rule of law. The protection of women and children has been strengthened through the establishment of a special police unit for that purpose.

49. Recently, in the provinces of the Kasai region, military courts have been established to conduct investigations, and judicial proceedings are under way to ensure justice for all victims.

50. As to the country's legislative framework for protecting and assisting internally displaced persons, Decree No. 13/008 of 23 January 2013 provides for the establishment and implementation of a national humanitarian coordination framework to address the situation of internally displaced persons. The Democratic Republic of the Congo is a party to the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention).

51. With regard to the measures taken to prevent and punish abuses committed against civilians by members of the armed forces, since 2009 the armed forces' Civic Education and Social Action Service has carried out initiatives in the different military districts to train 350 peer training officers in human rights and international humanitarian law. Moreover, pursuant to article 45, sixth and seventh paragraphs, of the Constitution, human rights are taught both at Kananga Military Academy and at Kinshasa Staff College. It should also be noted that the Ministry of Defence and Veterans' Affairs and the Ministry of Justice and Human Rights, with support from national and international partners (the

United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO), among others), regularly hold human rights training sessions for judges and justice officials in particular.

52. Furthermore, the Ministry of Justice and Human Rights organizes continuous information campaigns for the defence and security forces and prison service officials throughout the country on laws and conventions concerning human rights.

53. With regard to enforcement, in addition to the strict application of the Military Criminal Code, the following laws have strengthened the penalties applicable to military personnel who commit abuses against civilians: Act No. 11/013 of 11 August 2011 on the organization and functioning of the National Police; Act No. 13/013 of 1 June 2013 on the rules governing career personnel of the National Police; Act No. 011/012 of 11 August 2011 on the organization and functioning of the armed forces; Act No. 13/005 of 15 January 2013 on the rules governing personnel of the Armed Forces of the Democratic Republic of the Congo, and Act No. 11/008 of 9 July 2011 on the criminalization of torture.

54. As for the measures to be taken to ensure that superior officers are held accountable for human rights violations, the country has ratified the Rome Statute of the International Criminal Court, article 28 of which provides for the criminal responsibility of superiors. In addition, Act No. 06/19 of 20 July 2006 amends and supplements the decree of 6 August 1959 on the Code of Criminal Procedure by introducing provisions relating to sexual violence.

55. With regard to measures taken to identify and prosecute members of armed groups who are responsible for abuses, the following operations and programmes may be cited:

- The Kimia operations to pacify the territories cleared of negative forces
- The Amani Leo programme to protect civilians and fight the Hutu rebels of the Forces démocratiques de libération du Rwanda (FDLR) in the eastern part of the country
- The first, second and third phases of the disarmament, demobilization and reintegration programme
- The Stabilization and Reconstruction Plan, which, since 2009, has been aimed at the stabilization and restoration of conflict-affected areas, replacing the Amani programme. It has three components: security, humanitarian assistance and economic development
- Establishment of a zone of military operations in the provinces of the Kasai region

56. Gédéon Kyungu surrendered on 11 October 2016, along with about 100 of his fighters, in response to the call by the Head of State to restore peace in the northern part of Katanga.

Administration of justice

57. The effective independence of the judiciary results primarily from the fact that the Judicial Service Commission, the body that oversees the judiciary, consists exclusively of judges, in accordance with article 152 of the Constitution. In addition, judges' salaries were increased by an average of 20 per cent in 2011.

58. Concerning the follow-up to the forum on justice, the results of the forum are reflected in the national policy document on justice sector reform that was issued in May 2016.

59. Regarding the recruitment of judges since the consideration of the country's 2006 report, 2,000 judges, including 400 women, were recruited, trained and deployed in 2010-2011.

60. The annual budget of the justice sector amounted to $14,409,054 in 2016.

61. The geographical distribution of courts is shown in the table below:

Table 9
Mapping of the court system

No.	*Court*	*Number*
01	Courts of appeal	12
02	Commercial courts	12
03	Labour courts	12
04	Courts of major jurisdiction	50
05	District courts	47
06	Juvenile courts	20

62. Of the three high courts provided for in the Constitution, only the Constitutional Court has been established. The Supreme Court is temporarily performing the functions of the Court of Cassation and the Council of State, pending the establishment of these courts.

63. Escapes from places of detention are generally due to the dilapidated state of the buildings, the shortage of prison staff and the persistence of pockets of negative forces that create insecurity in some provinces. The only documented case is that of Mr. Mathieu Ngudjolo, who is being tried by the Court of Appeal of Kinshasa/Gombe for crimes against humanity.

64. Under Act No. 15/025 of 31 December 2015 amending and supplementing Act No. 023/2002 of 18 November 2002 on the Code of Military Justice, military courts continue to try cases involving genocide, war crimes and crimes against humanity committed by military personnel or police officers.

65. Measures against torture include the following:

- Directive No. AG/0793/10 of 23 June 2010, issued by the Chief Military Prosecutor of the Military High Court and instructing heads of military prosecutors' offices to investigate all cases of torture or ill-treatment, in accordance with national and international legal instruments on this topic
- Circular No. 1981/PNC/CG/COMDT/2014 of 16 July 2014, issued by the Commissioner-General of the National Police and instructing all unit commanders and division chiefs to ensure that their actions in the context of judicial proceedings, including those relating to torture, that concern their offices are strictly in accordance with the law
- Circular No. 0905/PNC/CiatGen/084/SvJur&Cont/2015 of 7 May 2015, recalling Note No. 25 CAB/VPM/MININTERSEC/785/2015 of 20 March 2015 and providing instructions to all provincial commissioners, directors-general of central services and commanders of specialized national training on the humanization of police services
- Awareness-raising campaigns, since 2012, among officers and personnel of the defence and security forces and of the judiciary, through the national programme to raise awareness and provide information on the law criminalizing torture
- Finally, the Ministry of Human Rights, in collaboration with the United Nations Joint Human Rights Office, organizes regular monitoring missions to punishment cells, jails and prisons, as well as capacity-building sessions on human rights for public service officers and staff in the provinces. Criminal investigation officers also receive training on their role in the course of these monitoring missions. In order to ensure good social conditions for prisoners, in February 2017 the Democratic Republic of the Congo launched a monitoring initiative in prisons pursuant to the instruction on the release of 51 prisoners who had been victims of arbitrary detention or non-implementation of a presidential pardon.

66. Allegations of deaths due to torture are not accurate.

67. The following decisions have been issued by military courts:

- Bukavu garrison military court: RP 275/09 and 521/10/RMP 581/07 and 1573/KMC/10
- Maniraguha Jean Bosco, alias Kazungu et al., sentenced to life imprisonment for crimes against humanity (torture)
- Bunia garrison military court: RP 071/09, 009/010 and RP 074/010
- Kakado Barnaba, sentenced to 20 years' imprisonment for war crimes (cruel or inhuman treatment)
- Bukavu garrison military court: RP 708/12/RMP 1868/TBK/KMC/1012
- Kabala Mandumba, sentenced to 20 years' imprisonment for war crimes (torture)

68. Regarding plans to establish a national mechanism for the prevention of torture, the Democratic Republic of the Congo has not yet established a national mechanism for the conduct of periodic visits to places of detention under article 17 of the Optional Protocol. However, such visits are currently carried out by the Ministry of Human Rights and the National Human Rights Commission.

Liberty and security of person

69. A central register of prisons and jails is kept by the Ministry of Justice.

70. Judges are responsible for verifying the lawfulness of detention and of the places where detainees are held. If detention is found to be irregular, the judge has the power to release the detainee or bring him or her before the statutory judge.

71. The measures taken to address arbitrary detention include regular visits to places of detention by the judicial authorities, awareness-raising campaigns targeting the relevant officials and the prosecution of violators.

72. Mr. Lumbala benefited from the measures taken to defuse political tensions, pursuant to the political agreement of 31 December 2016.

73. When the government authorities responsible for human rights inspect places of detention, they systematically release pretrial detainees found to be in an irregular situation.

74. On 19 September 2016, demonstrations organized by an opposition political party unfortunately degenerated into violence, resulting in killings, rape, arson, vandalism, malicious destruction of property and looting of public and private property.

Treatment of persons deprived of liberty

75. Under Judicial Organization Order No. 029/CAB/MIN/J&DH/2013 of 28 January 2013 on the establishment, organization and functioning of local budget management oversight committees for central and provincial prisons and detention camps, every prison has a joint committee for managing funds allocated for prisoners' meals. Each committee is made up of the provincial governor or his or her representative, the public prosecutor, the head of the provincial division of justice, the prison warden and two representatives of civil society.

Table 10

Deaths in custody, by prison, June 2015-August 2016

No.	*Prison*	*Total deaths*
01	Mbanza Ngungu	13
02	Matadi	4
03	Makala	30
04	Mbuji Mayi	29
05	Bandundu	0
06	Kananga	7

No.	*Prison*	*Total deaths*
07	Mbandaka	0
08	Beni	3
09	Kenge	4
10	Kinzenzi	13
11	Kasapa	12
12	Bunia	7
13	Kavangulu	4
14	Aru	8
15	Butembo	1
16	Goma	0
17	Bukavu	0
18	Kikwit	0

Source: Directorate of Correctional Services.

76. Prison construction and rehabilitation is one component of the national policy document on justice sector reform that was the outcome of the forum on justice held in 2015. In addition, with the support in particular of the United Nations Development Programme, the country has undertaken rehabilitation and construction work on the Goma, Dungu and Makala prisons and the Ndolo and Angenga military prisons.

77. The prison sector reform currently under way focuses on the review of the prison regulations instituted by the ordinance-law of 17 September 1965 and on the training of prison staff.

Protection of children

78. To address the forced recruitment of minors into the armed forces and armed groups, the Government, working with the United Nations country task force on monitoring and reporting, has drawn up an action plan for children involved with armed forces and armed groups in the Democratic Republic of the Congo, in accordance with Security Council resolutions 1539 (2004) and 1612 (2005). The plan is intended to prevent the recruitment of children and to remove them from the armed forces and armed groups. According to statistics provided by this body, 35,082 children were removed from the armed forces and armed groups between 2004 and 2011 and were reintegrated into the workforce, in particular in the areas of baking and confectionery, sewing, bicycle and motorcycle repair, car repair, carpentry, metalworking, fisheries, agriculture and livestock-raising, masonry and bricklaying.

79. The Child Protection Act of 10 January 2009 has three main parts concerning, respectively, social protection (children in difficult circumstances), judicial protection (children in conflict with the law) and protection under criminal law (child victims of offences).

80. The Democratic Republic of the Congo has taken appropriate legislative and other measures to combat the sexual and economic exploitation of children. Noteworthy in this regard are the following:

- Act No. 09/001 of 10 January 2009 on child protection, articles 169 to 184 of which criminalize all acts of sexual assault against children
- Act No. 06/018 of 20 July 2006 amending and supplementing the Decree of 30 January 1940 on the Criminal Code and Act No. 06/019 of 20 July 2006 amending and supplementing the Decree of 6 August 1959 on the Code of Criminal Procedure, both of which concern sexual violence and also protect children

81. With regard to the worst forms of child labour, reference is made to the third, fourth and fifth periodic reports of the Democratic Republic of the Congo to the Committee on the

Rights of the Child (CRC/C/COD/3-5, paras. 157-161) and to rticle 53 of the Child Protection Act (No. 09/001 of 10 January 2009).

82. Mining work is one of the worst forms of child labour prohibited under article 4 of the 2002 Labour Code, in respect of which a national action plan has been developed and implemented, as mentioned in the above-cited report. Its implementation will be stepped up with a view to ensuring that no children are working in the mining production chain by 2020.

83. In addition, the Government has taken a number of further actions, including:

- Establishment of the Assistance and Training Service for Small-Scale Mining to ensure that artisanal mining meets minimum safety standards and that children are not employed in this area.
- Establishment, by ministerial order, of qualification procedures for small-scale mining sites, with one of the criteria for a site to be declared "fit" and open being the absence of pregnant women and of children under the age of 18.
- Organization of awareness-raising campaigns for the removal of children from mineral supply chains. The process of removing children from mining sites is carried out with support from the World Bank and with the involvement of the Ministry of Gender, Family and Children's Affairs, the Ministry of Primary, Secondary and Vocational Education and the Ministry of Social Affairs, for the reintegration of such children in school. To date, 11,735 children have been identified for reintegration in school.
- Construction of schools by mining companies in the communities where their mining projects are located, as part of the social responsibility incumbent on them under their contracts.
- The process of ensuring that primary education is provided free of charge, as stipulated by the Constitution and encouraged by the Government, will make it possible to bring many children working at mining sites back into the school system.

84. With regard to the plight of street children, the Government has taken a number of measures to improve their living conditions, including:

- Definition of standards and norms for the care of vulnerable children
- Implementation of the "Street children" project, with funding from the World Bank
- Conduct of studies for the implementation of the social safety net project to provide support to vulnerable households
- Production of a guide for service providers on the reunification of children with their families
- Adoption of a national protocol on the referral and counter-referral of children in difficult circumstances
- Adoption of a national protocol on foster care
- Adoption of a national protocol on the implementation of the certificate of indigence
- Production of a handbook on non-contributory social protection
- Production of terms of reference for social workers and social service centres
- Training of social workers
- Collaboration between the Ministry and its partners Capacity and For Children

85. To combat child trafficking networks, the following steps have been taken:

- Oversight of all facilities for the care of children in difficult circumstances, which has led to the closure of those that did not meet the relevant standards

- Suspension of international adoptions pending the establishment of a government agency with responsibility for adoption, in accordance with article 670 of the Family Code, as amended

86. Regarding so-called "witch" children, the following steps have been taken:

- Implementation of the social safety net project to provide vulnerable households with financial support for income-generating activities
- Awareness-raising among families known to have children in street situations
- Advocacy among the staff of shelters and facilities that care for street children on support measures and family interviews
- Capacity-building for foster families and staff of group homes for foster children
- Closure of churches that practise exorcism on children

87. The low rate of birth registration in the civil registry is due in particular to:

- The fact that civil registry offices are few and far between
- Lack of awareness among the general public
- Lack of interest among the general public

88. The measures taken by the State party to promote birth registration, in addition to those mentioned in paragraph 46 of the preceding report (CRC/C/COD/3-5) and paragraph 2 of the replies to the list of issues (CRC/C/COD/Q/3-5/Add.1), include the following:

- A catch-up campaign for the retroactive registration of all children enrolled in school, with support from the World Bank, for a three-year period starting at the beginning of the academic year in 2017
- Further capacity-building among provincial focal points and establishment of branch civil registry offices and support offices in health-care facilities

Freedom of expression, freedom of assembly and freedom of association

89. Government decisions to suspend television programmes have generally been based on non-compliance with the applicable contractual conditions or with the provisions of articles 23 and 87 of Act No. 96-002 of 22 June 1996 governing the exercise of freedom of the press by foreign television channels. These articles read as follows:

- Article 23: "One or more foreign individuals or companies may form a press organization in association with Zairean (Congolese) nationals, provided that a majority share of the organization's capital is held by Zairean (Congolese) nationals"
- Article 87: "Any private radio or television broadcasting company that is not in compliance with the provisions of the present Act shall not be permitted to broadcast in Zaire (the Democratic Republic of the Congo)"

90. However, once these channels are brought into compliance, they are once again allowed to broadcast throughout the country.

91. The Higher Audiovisual and Communications Council, which was established to guarantee and ensure the freedom and protection of the press and of all communication media in accordance with the law, has played its regulatory role in exercise of its powers under Organic Act No. 11-001 of 10 January 2011.

92. Order No. 010/CAB/M-CM/LMO/2016 of 12 November 2016 does not affect the ability of foreign media to broadcast in the Democratic Republic of the Congo. Rather, it regulates radio and television broadcasting by foreign individuals and companies, in accordance with the above-cited article 23. In addition, article 3 of the Order adds that radio broadcasters that are not based in the Democratic Republic of the Congo may broadcast programmes from time to time in partnership with a radio broadcaster based in the country.

93. Foreign radio stations that broadcast continuously in the Democratic Republic of the Congo must, for reasons of reciprocity, sign partnership agreements with Congolese audiovisual companies.

94. The decision to suspend social media was taken to preserve law and order.

95. At this time the Democratic Republic of the Congo has no plans to amend Ordinance-Law No. 300 of 16 December 1963 penalizing the offence of insulting the Head of State and criminalizing defamation and press offences.

96. Decree-Law No. 196 of 29 July 1999, under which campaign rallies could not be held without prior authorization, is no longer applied in the Democratic Republic of the Congo, as the Constitution requires only prior notification. However, at times the authorities have decided not to permit some public demonstrations, in the interest of preserving law and order. Such decisions are intended to prevent problems such as the many abuses observed during the demonstrations held on 19 and 20 December 2016.

97. Regarding allegations that local authorities abuse their police powers to ban political rallies expressing dissenting views or the views of other political parties, reference is made to the reply given in paragraph 23 above.

98. All the allegations of excessive use of force, distribution of machetes and mass arrests are groundless.

Protection of journalists, human rights defenders and political opponents

99. Allegations of judicial harassment against media professionals, human rights defenders and political opponents are unfounded. However, some of these individuals have been prosecuted or convicted in court proceedings concerning ordinary offences or ordinary civil disputes.

100. The primary mandate of the Unit for the Protection of Human Rights Defenders, established by Ministerial Order No. 219/CAB/MIN.J&DH/2011 of 13 June 2011, is to receive complaints from human rights defenders who allege that they have been threatened and to take prompt action on such complaints, while keeping the authorities informed.

101. The law on the protection of human rights defenders has been adopted by the Senate and will soon be considered by the National Assembly.

Participation in public affairs (art. 25)

102. With regard to elections, the agreement of 31 December 2016 provided for the organization of presidential, legislative and provincial elections by 31 December 2017. The National Council for Oversight of the Agreement is responsible for monitoring the implementation of this commitment.

103. To this end, assessments are made by the tripartite Government, the National Council for Oversight of the Agreement and the Independent National Electoral Commission with a view, in particular, to determining the calendar of elections.

104. No candidate has been a victim of torture or of restrictions on fundamental freedoms. Some legal proceedings have been initiated, but they have concerned ordinary offences.

105. The headquarters of opposition political parties and of the presidential majority party were set on fire during the demonstrations of 19 and 20 September 2016, and the perpetrators have been prosecuted and sentenced.

106. To date, no legislative or administrative measures have been taken to compel Pygmy peoples to leave their natural environments. However, a few clashes sparked by land disputes between Pygmy and other communities, especially in the Province of Tanganyika, have led to cases of displacement. The Government established a commission to deal with this situation, and the end result has been peaceful coexistence between these peoples.

107. Pygmy peoples are not treated differently in society, as they enjoy the same civil, political and economic rights as all other population groups, and receive the same health,

social and educational benefits. Individuals from Pygmy communities can be found in all sectors of national life: health care, public administration, the army and the police.

108. With regard to measures taken to enable ethnic groups to preserve their own culture, a bill on this subject has been submitted to Parliament.